IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 24538 of 1998

Between:

G.V.G.H.R.Sharma, S/o. G.Padmanabha Rao,
R/o. 23/A-5-77, Naganti Vari Veedhi, Ramachandrarao pet,
Eluru, W.G.Dt., A.P.

..... PETITIONER

AND

1 The Principle Secretary, to Govt., Education Department, Secretariat

Buildings, Hyderabad.
2 The Director of School Education, Hyderabad, A.P.
3 The Regional Joint Director, School Education, Kakinada , E.G.Dt.
4 The District Educational Officer, West Godavari District, Eluru, W.G.Dt.
5 The Correspondent, K.P.D.T.High School, Ashokanagar, Eluru, W.G.Dt.A.P.
6 Sri K.S.R.Murthy,
K.P.D.T.High School, Eluru, W.G.Dt., A.P.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to set aside the impugned proceedings Rc.No.3320/D1-1/93 dated 19.8.1998, by calling the records from the respondents and issue a writ, order or direction more particularly one in the nature of writ Mandamus and declare the action of the Respondents in reverting the petitioner herein as illegal, unjust, contrary to law, contrary to the facts of the case and in violation of the principles of Natural Justice and it is only an arbitrary and capricious action.

Counsel for the Petitioner: SMT.P.REVATHI

Counsel for the Respondent Nos.1 to4: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.6: Mr.T.Pulla Rao

The Court made the following :

ORDER:

This writ petition is filed questioning the proceedings dated 19.8.1998 on the file of the Director of School Education, Andhra Pradesh, Hyderabad.

It is the case of the petitioner that he was appointed as Record Assistant with effect from 1.7.1983 in the 5th respondent school and his probation was approved by the 4th respondent District Educational Officer, West Godavari District. He has been discharging his duties to the utmost satisfaction of his superiors. After the petitioner selected for B.Ed., training as in-service candidate, he had undergone B.Ed., training during 1989-90. Thereafter, he had submitted a representation to the Head Master of the school on 8.2.1991 seeking promotion to the post of B.Ed., assistant as per G.O.Ms.No.167 dated 9.3.1984. Since two vacancies have arisen in the school, the petitioner was entitled to be promoted to the post of Secondary Grade Assistant. However, one post held by N.B.A.Rajeswari was filled up and another vacancy left by one K.S.R.Murthy on 28.8.1991. The said K.S.R.Murthy, respondent No.6 herein, was appointed as Secondary Grade Assistant on 2.1.1991 i.e., one month prior to the appointment as B.Ed., assistant. In fact, the case of the 6th respondent was considered, whereas the case of the petitioner for being appointed as B.Ed., assistant was neglected. It is the case of the petitioner that he is entitled for being considered for appointment as B.Ed., assistant in view of G.O.Ms.No.167 dated 9.3.1984. Since the said G.O., contemplates the method of

recruitment to the post of School Assistants Grade-I and Grade-II by recruitment by transfer from any other service, since the petitioner was already in-service in 1983 as Record Assistant, he is entitled for being considered and appointed to the post of B.Ed., assistant as per G.O.Ms.No.167. Though his name was recommended, the higher authority did not accept the same. Whereas the case of 6th respondent was considered for the post of B.Ed., assistant. However, the appointment of 6th respondent as School Assistant was rejected by the District Educational Officer and the 6th respondent was directed to be posted as SGBT instead of B.Ed., assistant since he had not put in the requisite service for being promoted to the post of B.Ed., assistant i.e., three years in the cadre of SGBT. Whereas the case of the petitioner was completely rejected on the ground that he is among the non-teaching staff of the school and the non-teaching staff is not entitled for being promoted for the cadre of teaching staff. Therefore, the case of the petitioner was rejected. Aggrieved by the same, the petitioner as well as the 6th respondent filed appeals before the Director of School Education. The Director of School Education considered the various contentions made by the claimants and passed the impugned proceedings dated 19.8.1998 in Rc.No.3320/D1-1/93. The said impugned order reads as under:

> "It is evident from the above facts, the claims of both the petitioners for considering their cases for promotion to the posts of School Assistant are not fitted into the then rules in force and as such to strike a balance in between the two claimants at this distance point of time – the matter has been once again reviewed and has come to the conclusion that there is no reason to continue/consider the case of Sri G.V.G.H.R.Sharma for the post of School Assistant on the ground that there is no direct promotional channel for Record Assistants to become School Assistants. Moreover, when the claims from the feeder categories are pending the claims of other categories won't be allowed/considered even though there are qualified to hold the post. Whereas, the case of Sri M.Sreeramachandra Murthy is a different one, as there is a direct channel for him to consider his case for promotion to the post of School Assistant from the feeder category of SGBT. As such, the case of Sri K.Sreeramachandra Murthy, SGBT of K.P.D.T. High School, Eluru has to be considered for the post of School Assistant duly pushing down Sri G.V.G.H.R.Sharma to the

post of SGBT in place of Sri K.Sreeramachandra Murthy. This in fact may facilitates/creates a channel for Sri G.V.G.H.R.Sharma for considering his case for promotion in the future vacancies of B.Ed. assistants in the said school."

Apart from this, the learned counsel for the petitioner strongly contends that as per G.O.Ms.No.167 dated 9.3.1984 the petitioner is entitled for being recruited directly to the post of School Assistant from the third method of recruitment as contemplated in the said G.O., i.e., recruitment by transfer "from any other service". I am afraid that such an argument was advanced by the learned counsel for the petitioner. May be in a given case, recruitment by transfer from any other service is possible. But in the light of G.O.Ms.No.167 or the instructions issued in proceedings in Rc.No.687/D1-2/87 dated 13.12.1989 a person working in non-teaching side is not entitled for being promoted to the post in the teaching side. Admittedly, the petitioner was appointed as Record Assistant in the year 1983. May be the petitioner had obtained B.Ed., degree as in-service candidate, that itself does not mean that the petitioner is entitled for being promoted to the post of B.Ed., assistant directly without being appointed as SGBT initially. May be the petitioner was entitled for being considered for appointment to the post of SGBT, but not for promotion to the post of B.Ed., assistant directly. Therefore, the order impugned in the writ petition does not suffer from any infirmity and requires no interference. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is, accordingly, dismissed. No order as to costs.

(C.V.RAMULU, J.)

20.6.2005

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To

1 The Principle Secretary to Govt., Education Department, Secretariat

Buildings,Hyderabad.
2 The Director of School Education, Hyderabad, A.P.
3 The Regional Joint Director, School Education, Kakinada, E.G.District.
4 The District Educational Officer, West Godavari District, Eluru,

W.G.District.
5 The Correspondent, K.P.D.T.High School, Ashokanagar, Eluru, W.G.District,

AndhraPradesh.
6. 2 copies to the Govt. Pleader for School Education, High Court Buildings,

Hyderabad (OUT).

7. 2 C.D.copies